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SANDLER, REIFF & YOUNG, P.C. OFFICE OF GENERAL COUNSEL

November 12, 2010

Jeff S. Jordan, Esq.
Office of the General Counsel
Federal Election Commission
999 E. Street, NW
Washington, DC 20463

Re: MUR 6376: Lori Edwards and Lori Edwards Campaign Committee

Dear Mr. Jordan:

The undersigned represents Lori Edwards and Lori Edwards Campaign Committee ("Committee" or "Respondents," collectively). By this letter, Lori Edwards and the Lori Edwards Campaign Committee, respond to a complaint filed by Dennis Ross for Congress. The complaint alleges that Respondents violated 11 C.F.R. § 109.21 and 11 C.F.R. § 114.2 when Lori Edwards, in her official capacity as Polk Supervisor of Elections, appeared in a Public Service Announcement ("PSA"), mandated by Florida law to educate the public on polling times and locations.

~~The Respondents do not dispute the underlying facts in this matter, that the PSA was~~
produced and disseminated from Ms. Edwards' official office. Respondents do, however, dispute that these advertisements resulted in an in-kind contribution to Ms. Edwards congressional campaign. First, the PSA falls within 109.21(g), the charitable solicitation exemption to the coordination regulations. Second, even if it was not exempted, the payment prong is not met. Third, the PSA was mandated by state law and her participation in the PSA was done only in her official capacity as Supervisor of Elections. Furthermore, her participation was kept entirely separate from her campaign for federal office and was entirely consistent with the PSAs she has participated in since taking office in 2000. Therefore, the Commission should dismiss the complaint and close the file.

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FACTS AND ANALYSIS

The Lori Edwards Campaign Committee ("Committee"), is a candidate committee registered with the Commission as the principal campaign committee for Lori Edwards' candidacy for the Florida 12th Congressional district for the 2010 election.¹

Since 2000, Lori Edwards has served as Polk County Supervisor of Elections. The office administers all elections, provides support for municipal elections and provides information on voter registration, voting and elections. In addition, as Supervisor of Elections, Ms. Edwards is required, by Florida Law, to increase voter education by, among other things, "participate[ing] in available radio, television and print programs and interviews in both general and minority media outlets, to provide voting information." Fl. Division of Elections, § 18-2.033(4)(b).²

The complaint arises from these mandated PSAs. Every election cycle, Ms. Edwards, in her official capacity as Supervisor of Elections, educates the public of the date and time of the upcoming Election Day and early voting opportunities. This year's PSA was no different than any other year.³ It is our understanding that all decisions regarding script, placement and the expenditure of funds for these ads were made by officials in Ms. Edwards's official office and that those decisions were consistent with prior cycles. Furthermore, no employee of Lori Edwards Campaign Committee was consulted or otherwise provided guidance as to the content or placement of these advertisements. Attached to this response, please find a declaration by Tony Coppola, Ms. Edwards Campaign Manager for her campaign for House of Representatives. In his declaration, Mr. Coppola confirms neither he, nor to the best of his knowledge, any other employee or agent of Lori Edwards for Congress, participated in the preparation and dissemination of the PSA ads.

Thus, the Commission must dismiss this complaint for several reasons:

First, the PSA qualifies for the charitable solicitation exemption found at 11 C.F.R. § 109.21(g), and is therefore exempt from the coordination regulation. The Commission's explanation of the exemption in Advisory Opinion 2006-10 (Echostar) clearly demonstrates that the PSA falls within its confines. In Echostar, the Commission held that PSAs featuring federal candidates qualified for the exemption. Some of the PSAs solicited for donations to 501(c) organizations, while others, including the sample attached to the request, educated the public on a variety of issues. The sample PSA that was to feature a federal candidate raised awareness about women and heart disease, but did not solicit funds for a nonprofit organization, and stated that the message was from the DISH Network. Like the PSA in Echostar, the PSA here also raises awareness and educates the public by disseminating information regarding the upcoming

¹ Lori Edwards lost the election on November 2, 2010.

² This is a rule promulgated by the Florida Division of Elections, under the directive of Florida law requiring the Department to adopt rules prescribing minimum standards for nonpartisan voter education including public service announcements. See Fla. Stat. § 98.255.

³ The script of the advertisement is as follows: "I'm Lori Edwards, Supervisor of Elections. Florida's state-wide primary election is coming up on August 24th and there are important races to be decided. All precincts are open from 7:00 A.M. to 7:00 P.M. on Election Day. Now, if you think you might be too busy to vote on Election Day, you can cast your ballot at one of our convenient early voting centers. Just stop by between 9:00 and 5:00 Monday through Saturday and cast your vote early. If you don't vote, they can't hear you."

election. While the PSA here does not actually solicit funds for a 501(c), neither did the approved PSA in Echostar.

The Commission stated that the exemption applies without regard to when the communication is made and is a total exemption to the coordination regulations. Therefore, the Commission should dismiss the complaint or find no reason to believe a violation has occurred because the PSA is exempted from the coordination regulations.

Even if the Commission finds the PSA to be outside of the 109.21(g) exemption, the PSA fails to meet the payment prong of the coordination regulations since the PSA is paid for by Ms. Edwards' official office account. Advisory Opinion 2009-26(Coulson), involved an Illinois State Representative who was running for Congress and planned to use her state office account or state campaign funds to pay for postcards publicizing a seniors fair she organized and for mailing a legislative update. The state office account funds, like the funds used here, are authorized by Illinois law for defraying constituent services, official office and personnel expenses. See 25 Illinois Compiled Statutes 115/Article 4. Referencing Advisory Opinion 2007-01 (McCaskill), the Commission found that since Coulson and her official agents were paying for the communications, the payment prong is not met.

Here, the PSA is also paid for with state funds controlled by Ms. Edwards but not only is she merely authorized by the state to use the funds, she is mandated by state law to use them for PSAs to educate the public. Therefore, since Ms. Edwards and her official agents are paying for the PSA, the payment prong is not met.

Finally, Ms. Edwards' participating in the PSA in her official capacity was kept entirely separate from her campaign for federal office. As explained above, Ms. Edwards' campaign staff, were not consulted nor did they have any involvement in any part of the PSA. It was simply produced the same way and by the same official personnel who created these ads in prior election cycles.

Likewise, the PSA had the same content and effect of every other year. The PSA educates the voters on polling times and dates. As with past PSA's, Ms. Edwards identifies herself as the Supervisor of Elections but does not make any mention of her candidacy. In fact, she does the opposite when she concludes the PSA by saying "if you don't vote they can't hear you."

In addition, this PSA is entirely consistent with every PSA created by the Supervisor of Elections and was created under a mandate from Florida law. The Commission has repeatedly recognized that a state officeholder's declaration of federal candidacy does not automatically alter the character of the candidates' activities routinely engaged in as a state officeholder. See Advisory Opinions 2009-26 (Coulson) and 1999-11 (Byrum). Here, the PSA was not merely an activity she engaged in, it is a requirement of her job and mandated by state law.

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For the reasons stated above, we respectfully request that the Commission find no reason to believe that any violation of the Act occurred and close the file.

Sincerely,

A handwritten signature in black ink, appearing to read 'Neil Reiff', is written over the word 'Sincerely,'.

Neil Reiff
Counsel for Respondents

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